

Application No.: 10/705,991
Docket No.: 472035-230-D1
RESPONSE TO RESTRICTION REQUIREMENT

REMARKS/ARGUMENTS

Claims 1-8 are pending in this application. The Office action indicates that claims 1-8 are subject to a restriction requirement. As indicated in the Office action, it is alleged that the application contains claims directed to two distinct inventions:

Group I – Claims 1-4 drawn to method of detecting breast cancer, and

Group II – Claims 5-8 drawn to a method of detecting metastatic cancer.

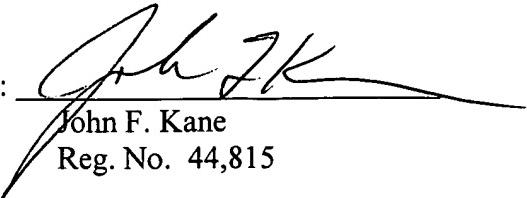
Applicants elect to prosecute the claims of Group I, with traverse. Applicants respectfully submit that the method steps set forth in each case involve determining the level of es-LAPase in a sample. The only distinction is in the condition being detected. Accordingly, applicants respectfully request that the restriction requirement be withdrawn and claims 1-8 be examined on the merits.

The Office action further indicates that applicants must elect a single disclosed species for prosecution of the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. According to the Office action, claims are directed to the following patentably distinct species: Detection involving immuno assay or by determining the activity of the es-LAPase in a sample. Applicants elect to prosecute the species involving determining the presence of LAPase in a sample by an immuno assay. Claims 1, 2, 3 and 4 all read on the elected species. Applicants further note that the monoclonal antibody is used at some point in both determining activity of LAPase and determining the presence of LAPase (see Example 5, for example).

Application No.: 10/705,991
Docket No.: 472035-230-D1
RESPONSE TO RESTRICTION REQUIREMENT

In the event that the Examiner wishes to discuss any aspect of this response, please contact the undersigned at the telephone number indicated below.

Respectfully submitted:

By: 
John F. Kane
Reg. No. 44,815

THOMPSON HINE LLP
2000 Courthouse Plaza N.E.
10 West Second Street
Dayton, Ohio 45402-1758
Telephone: (937) 443-6816
Facsimile: (937) 443-6635

444639-v1